

UNITED STATES DISTRICT COURT  
NORTHERN District of NEW YORK

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UNITED STATES OF AMERICA

vs.

SHANE DeSILVA

**ORDER ON 2255 MOTION PURSUANT TO  
18 U.S.C. §§ 1028 (a)(4) and/or (a)(6) FOR  
CORRECTED JUDGMENT**

Case

Number: 5:02-CR-0068-002

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Upon the motion of the defendant for a corrected judgment based on the December 17, 2008, determination by the United States Department of Justice, that the increased penalty provisions contained in 18 U.S.C. §§ 1028(b)(1) and (b)(2) do not apply as a matter of law to convictions under 18 U.S.C. §§ 1028(a)(4) and (a)(6), and the Court having reviewed said determination and said statutes and agreeing with the position of the United States on this matter,

**IT IS ORDERED** that the 2255 motion by defendant is granted and an amended judgment is to be issued reflecting the offense of conviction pursuant to 18 U.S.C. §§ 1028(a)(4) and/or (a)(6) as a misdemeanor.

**IT IS SO ORDERED.**

April 7, 2009  
Order Date

  
Norman A. Mordue  
Chief United States District Court Judge